



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCB/159291

PRELIMINARY RECITALS

Pursuant to a petition filed July 25, 2014, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Milwaukee Enrollment Services in regard to Child Care, a hearing was held on August 20, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the Petitioner's appeal is timely and, if so, whether the agency properly discontinued child care benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue
Madison, Wisconsin 53703

By: Simone Johnson

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On March 17, 2014, the agency issued a notice to the Petitioner reminding her that her review for child care benefits must be completed by April 30, 2014.

3. On April 18, 2014, the agency issued a Notice of Eligibility Child Care to the Petitioner informing her that child care benefits would end on April 30, 2014 due to failure to complete her review. The notice also informed the Petitioner that she could request a hearing by filing appeal no later than June 16, 2014.
4. On May 5, 2014, the Petitioner contacted the agency to complete her review. On May 6, 2014, the agency issued a Notice of Action and Proof Needed to the Petitioner informing her that she must sign her application and submit employment and income verification from [REDACTED] by May 14, 2014.
5. On May 14, 2014, the agency received verification of income as well as the Petitioner's signature.
6. On May 15, 2014, the agency issued a Notice of Eligibility Child Care informing the Petitioner that her child care benefits ended May 1, 2014 due to income over the program limit. The notice informed her of the right to a hearing by filing an appeal with the Division of Hearings and Appeals by June 30, 2014.
7. On June 27, 2014, the Petitioner re-applied for child care benefits. She submitted pay statements from [REDACTED]. On June 20, 2014, the agency issued a Notice of Decision to the Petitioner informing her that the agency denied her application due to income exceeding the program limit. The agency calculated gross monthly income of \$2,506.91 including \$1,716.13/month of earned income and \$790.78/month in SSI for Petitioner's son.
8. On July 28, 2014, the agency sent another Notice of Decision to the Petitioner again informing her that the agency denied her application due to income exceeding the program limit. The agency calculated gross monthly income of \$2,497.34 including \$1,706.56/month in earned income and \$790.78/month in SSI for Petitioner's son.
9. Petitioner's pay statements from [REDACTED] report the following gross earned income:

Pay period of May 18, 2014 – May 31, 2014 (pay date of June 6, 2014):

Regular hours of 55.6 @ \$12.70/hour =	\$706.12
Paid time off of 2.9 hours @ \$12.70/hour =	\$ 36.83
Holiday 7 hours @ \$12.70/hour =	<u>\$ 88.90</u>
Total gross earned income	\$831.85

Pay period of June 1, 2014 – June 14, 2014 (pay date of June 20, 2014):

Regular hours of 62.3 @ \$12.70/hour =	\$791.21
Paid time off of 4.90 hours @ \$12.70/hour =	<u>\$ 52.23</u>
Total gross earned income	\$843.44

10. On July 25, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

A hearing officer can only rule on the merits of a case if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of an action by a county agency concerning child care benefits must be filed within 45 days of the date of the notice. Wis. Admin. Code § HA 3.03 and 3.05. The petitioner's appeal is untimely with respect to the agency actions on April 18, 2014 and May 15, 2014. No jurisdiction exists for considering the merits of those actions.

The Petitioner's appeal is timely with respect to the agency's denial of her application filed on June 27, 2014. I will review the merits of that denial.

The Wisconsin Shares Child Care program provides Child Care assistance to W-2 participants who participate in approved activities. Wis. Stat. § 49.155(1m)(a); Day Care Manual, § 1.1.1. The income limit for new applicants or cases that have closed for more than 30 days is 185% of the federal poverty level. Wis. Stat. § 49.155(1m)(c)1.

To determine eligibility for the Wisconsin Shares child care assistance program, the agency must count all available earned and unearned income with some exceptions that are not applicable here. Wisconsin Shares Child Care Manual (CCM) §1.6.4. Income sources that must be counted include wages and SSI. CCM, §1.6.10. If the amount of regularly received income varies, the agency must use an average. CCM, §1.6.7.

Based on the evidence submitted, I conclude the agency did properly calculate the Petitioner's gross monthly income in June, 2014. The agency initially calculated Petitioner's gross monthly earned income as \$1,716.13 but subsequently corrected the calculation to \$1,706.56. When the Petitioner's son's SSI is added to the gross monthly earned income, the household's gross monthly income is \$2,497.34. This exceeds the program limit of \$2,425. Thus, the agency properly denied the Petitioner's application for benefits.

I note that the agency properly used the 185% federal poverty level income limit due to Petitioner's case having been closed for more than 30 days when she re-applied for benefits.

I also note that this decision does not prevent the Petitioner from re-applying for benefits if her gross income decreases at any time below \$2,425/month.

CONCLUSIONS OF LAW

The agency properly denied the Petitioner's application for child care benefits.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Children and Families. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 201 East Washington Avenue, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 10th day of November, 2014

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 10, 2014.

Milwaukee Enrollment Services
Child Care Benefits